

REMARKS

After cancelation of claims 2-3, 12, 17-18, 22, 27 and 30, and the previous cancelation of claims 31-37 and 39, claims 1, 4-11, 13-16, 19-21, 23-26, 28-29 and 38 are currently active and pending in the present application. The rejection under 35 U.S.C. 103 is respectfully traversed. However, in order to further the prosecution of this application, independent claims 1, 16 and 38 have been amended in order to further distinguish them from the cited art. Support for the claim amendments can be found in paragraph 0081. Applicant believes that the present application as amended is now in condition for allowance, which prompt and favorable action is respectfully requested.

Objection to Claims 1-30 and 38

Claims 1-30 and 38 are objected to due to informalities cited by the Office Action. By this amendment, claims 1, 8, 15, 16, 23 and 38 have been amended to cure informalities noted in the present Office Action, and other typographical errors noticed by the Applicant.

35 U.S.C. 103 Rejection

The MPEP recited the standard to be applied in an issue of obviousness under 35 USC 103. Section 2143.03 of the MPEP states in part:

ALL CLAIM LIMITATIONS MUST BE CONSIDERED

"All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

Claims 1-6, 16-21 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen U.S. Patent No. 7,154,846 in view of Kim et al. U.S. Patent No. 7,072,324. Applicant respectfully traverses this rejection for the reasons stated below.

As amended, independent claim 1 recites the element of “feeding a replica of the entire modulation symbol sequence to each of a plurality of orthogonal sequence covers...” Similarly, as amended, independent claims 16 and 38 recite the element of “a replica of the entire modulation symbol sequence is fed to each of the plurality of orthogonal sequence covers...” Chen does not disclose, teach or suggest the elements recited in independent claims 1, 16 and 38. In contrast, Chen teaches “[s]ymbol demultiplexing 16 to 1 [*1 to 16, sic*] occurs at 870. Then the appropriate Walsh cover is applied for each of the sixteen channels at 872.” *Chen, Col 8:16-18*. In other words, Chen teaches symbol demultiplexing to break the incoming symbols into symbols for respective channels and applies an appropriate Walsh cover. Thus, Chen teaches away from “feeding a replica of the entire modulation symbol sequence to each of a plurality of orthogonal sequence covers” or “a replica of the entire modulation symbol sequence is fed to each of the plurality of orthogonal sequence covers...” as recited by independent claims 1, 16 and 38 and their respective dependent claims.

The cited secondary reference (Kim et al.), however, does not make up for the deficiency in Chen. Instead, Kim et al. discloses “[i]mproved performance of a forward link is achieved in the OTD transmitter by dividing information from one user into two or more streams and transmitting the divided data through the plurality of transmission antennas...” *Kim et al., Col 2:39-43*. In other words, Kim et al. teaches to divide the symbols rather than feed a replica of the entire modulation symbol sequence to each orthogonal sequence covers as recited in claims 1-6, 16-21 and 38.

For the reasons stated above, the prior art references cited by the Examiner, either taken separately or in combination, do not teach, suggest or make obvious the rejected claim 1-6, 16-21 and 38. Thus, Applicant respectfully requests withdrawal of the 35 U.S.C.103 rejection based thereon.

ALLOWABLE SUBJECT MATTER

Applicant thanks the Examiner for indicating the allowability of claims 7, 8-15, 22 and 23-30. As the amendments made herein are believed to resolve the outstanding objections of these claims, claims 7, 8-15, 22 and 23-30 are now believed to be allowable.

REQUEST FOR ALLOWANCE

In view of the foregoing, Applicant submits that all pending claims in the application are patentable. Accordingly, reconsideration and allowance of this application are earnestly solicited. Please charge the appropriate fee for the RCE under 37 CFR §1.17 to Deposit Account No. 17-0026. Applicant does not believe that any other fees are due regarding this amendment. However, if any fees are required, please charge Deposit Account No. 17-0026. Applicant encourages the Examiner to telephone the Applicant's attorney should any issues remain.

Respectfully submitted,

Dated: July 16, 2008

By: /Kenneth K. Vu/
Kenneth Vu Reg. No. 46,323

QUALCOMM Incorporated
Attn: Patent Department
5775 Morehouse Drive
San Diego, California 92121-1714
Telephone: (858) 658-5106
Facsimile: (858) 658-2502